

SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SECOND GENERAL ASSEMBLY

89TH LEGISLATIVE DAY

TUESDAY, APRIL 23, 2002

12:00 O'CLOCK NOON

No. 89  
[Apr. 23, 2002]

The Senate met pursuant to adjournment.  
 Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.  
 Prayer by Reverend Thomas C. Wirsing, Trinity Lutheran Church,  
 Normal, Illinois.

Senator Radogno led the Senate in the Pledge of Allegiance.

The Journal of Thursday, April 18, 2002, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

#### REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

A report on the Governor George H. Ryan Illinois FIRST Program, FY 2003-2007, Proposed Highway Improvement Program, submitted by the Department of Transportation.

The annual Financial Statement and Auditor's Report, OMB Circular A-133 Reports and Supplementary Data, Year Ended June 30, 2001, submitted by the Northeastern Illinois Planning Commission.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

#### MESSAGE FROM THE HOUSE OF REPRESENTATIVES

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:

#### SENATE JOINT RESOLUTION NO. 70

Concurred in by the House, April 18, 2002.

ANTHONY D. ROSSI, Clerk of the House

#### REPORTS FROM STANDING COMMITTEES

Senator T. Walsh, Chairperson of the Committee on Insurance and Pensions to which was referred House Bills numbered 2370, 4220, 4725, 4975, 5168, 5169, 5307, 5596, 5608 and 5842 reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator T. Walsh, Chairperson of the Committee on Insurance and Pensions to which was referred House Bills numbered 1889, 4371 and 4407 reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred House Bills numbered 1081, 3697, 4188, 4339, 4397, 4795 and 5647 reported the same back with the recommendation

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that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred House Bills numbered 5368, 5375 and 5654 reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare to which was referred House Bills numbered 1535, 1536, 3662, 4465, 5140, 5567, 5870, 6001 and 6002 reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare to which was referred House Bills numbered 5844, 5965 and 6041 reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

At the hour of 12:34 o'clock p.m., Senator Watson presiding.

#### EXCUSED FROM ATTENDANCE

On motion of Senator Demuzio, Senator Clayborne was excused from attendance due to medical reasons.

#### PRESENTATION OF RESOLUTIONS

##### SENATE RESOLUTION NO. 402

Offered by Senator Link and all Senators:

Mourns the death of Thomas G. August of Waukegan.

##### SENATE RESOLUTION NO. 403

Offered by Senator Link and all Senators:

Mourns the death of Irma M. Innocenzi of Highland Park.

The foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Parker offered the following Senate Resolution, which was referred to the Committee on Rules:

##### SENATE RESOLUTION NO. 404

WHEREAS, The Illinois Department of Public Aid (IDPA) has entered into a contract to create a Preferred Drug List in the Medicaid program to entice pharmaceutical manufacturers into providing supplemental rebates to the program; and

WHEREAS, The establishment of a Medicaid Preferred Drug List will necessitate a vast expansion in prior authorization of prescription drugs, which inherently limits access of Medicaid patients to certain prescription medications; and

WHEREAS, The creation of an Illinois Medicaid Preferred Drug List could radically alter the clinical integrity of formularies and the treatment regimens of Illinois' Medicaid patients and lead to unintended and costly consequences such as inferior healthcare, increased hospitalizations and emergency care, increased admissions

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into long-term care, and unnecessary patient suffering and potentially death; and

WHEREAS, It could be especially risky to interfere with the treatment regimens of particularly vulnerable populations, including, but not limited to, patients with HIV/AIDS, cancer, or mental illness, children, nursing home residents, and persons with other complex and serious diseases; and

WHEREAS, IDPA has moved forward on the creation of a Preferred Drug List without notice to or advice from the Illinois General Assembly and without input from the patient advocate community; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Senate Public Aid Preferred Drug List Oversight Committee is established for the purpose of overseeing the implementation of IDPA's Medicaid Preferred Drug List; and be it further

RESOLVED, That the Senate Public Aid Preferred Drug List Advisory Committee shall consist of 5 senators, 3 of whom shall be appointed from the majority party by the President of the Senate and 2 of whom shall be appointed from the minority party by the Senate Minority Leader; and be it further

RESOLVED, That the Senate Public Aid Preferred Drug List Oversight Committee may do the following:

(1) Hold public hearings to receive and consider input from key stakeholders such as physicians, the patient advocacy community, and other interested parties.

(2) Solicit data from IDPA and request monthly reports from IDPA on the implementation, health outcomes, and net cost implications of the Medicaid Preferred Drug List, including the cost of any consulting or contractor fees to implement the Preferred Drug List, the cost to conduct prior authorization, and costs to other healthcare services paid for by IDPA, such as emergency care, hospitalization, and long-term care.

(3) Make recommendations to IDPA regarding the clinical integrity of drug formularies, patient care, and particular therapeutic classes of drugs that should be exempted from the Preferred Drug List; and be it further

RESOLVED, That the Senate Public Aid Preferred Drug List Advisory Committee shall complete its work by December 31, 2002.

#### INTRODUCTION OF A BILL

SENATE BILL NO. 2417. Introduced by Senator Radogno, a bill for AN ACT concerning child labor.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 4726, sponsored by Senator Demuzio was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4822, sponsored by Senator DeLeo was taken up, read by title a first time and referred to the Committee on Rules.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

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On motion of Senator Peterson, House Bill No. 1815 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, House Bill No. 3629 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Peterson, House Bill No. 3775 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, House Bill No. 4053 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lauzen, House Bill No. 4451 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, House Bill No. 4531 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator T. Walsh, House Bill No. 4952 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Parker, House Bill No. 5742 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Halvorson, House Bill No. 5807 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Sullivan, House Bill No. 5829 was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Myers, House Bill No. 1006 having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

#### AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1006 by replacing everything after the enacting clause with the following:

"Section 5. The Timber Buyers Licensing Act is amended by changing Sections 4, 5, 7, 11, and 13 as follows:

(225 ILCS 735/4) (from Ch. 111, par. 704)

Sec. 4. Bond. Every person licensed as a timber buyer shall have--on file with the Department, on a form prescribed and furnished by the Department, a performance surety bond payable to the State of Illinois by and through the Department and conditioned on the faithful performance of and compliance with all requirements of the license and this Act. The bond shall be a surety bond signed by the person to be licensed as principal and by a good and sufficient corporate surety authorized to engage in the business of executing surety bonds within the State of Illinois as surety thereon. In lieu of a corporate surety bond an applicant for a timber buyers license may, with the approval of the Department, deposit with the Department as security a file-a-bond-signed-by-the-applicant-as-principal-and accompanied-by-a-bank-or-savings-and-loan-association certificate of deposit or irrevocable letter of credit of any bank organized or transacting business in the United States in-a-form-approved-by-the Department, showing-to-the-satisfaction-of-the-Department-that-funds in an amount equal to or greater than the amount of the required bond are--on-deposit-in-a-bank-or-savings-and-loan-association-to-be-held-by-the-bank-or-savings-and-loan-association-for-the-period-covered-by-

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~~the license. Such deposits shall be made, held, and disposed of as provided in this Act and by the Department by rule. A bond or certificate of deposit. The funds shall be made payable upon demand to the Director, subject to the provisions of this Act, and any rules adopted under this Act, and shall be for the use and benefit of the people of the State of Illinois, and for the use and benefit of any timber grower from whom the applicant purchased timber and who is not paid by the applicant or for the use and benefit of any timber grower whose timber has been cut by the applicant or licensee or his or her agents, and who has not been paid therefor; and for the use and benefit of any person aggrieved by the actions of the timber buyer. the Department may, in its discretion, continue the existing bond of any applicant who has previously been licensed and posted a good and sufficient bond.~~

Except as otherwise provided, in this Section, such bond shall be in the principal amount of \$500 for an applicant who paid timber growers \$5,000 or less for timber during the immediate preceding year, and an additional \$100 for each additional \$1,000 or fraction thereof paid to timber growers for timber purchased during the preceding year, but shall not be more than \$10,000. In the case of an applicant not previously engaged in business as a timber buyer, the amount of such bond shall be based on the estimated dollar amount to be paid by such timber buyer to timber growers for timber purchased during the next succeeding year, as set forth in the application; such bond shall, in no event, be in the principal amount of less than \$500. In the case of a timber buyer whose bond has previously been forfeited in Illinois or in any other state, the Department shall double the applicable minimum bond amounts under this Section.

A bond filed in accordance with this Act. Such bond, or surety thereon, shall not be cancelled or altered during the period for which the timber buyer remains licensed by the Department license to the applicant was issued except upon at least 60 days notice in writing to the Department; in the event that the applicant has deposited certificates of deposit in lieu of a corporate surety the Department may retain possession of such certificates of deposit for a period of 60 days following the expiration or revocation of his or her license.

At any such time as a licensee fails to have the necessary surety bonds, certificates of deposit, or irrevocable letters of credit or both on deposit with the Department as required herein, the Department may immediately, and without notice, suspend the privileges revoke the license of such licensee. In the event of such suspension revocation, the Department shall give immediate notice of the same to the licensee and shall further reinstate such license upon the posting of the required surety bond, or certificates of deposit, or irrevocable letters of credit.

Bonds shall be in such form and contain such terms and conditions as may be approved from time to time by the Director, be conditioned to secure an honest cutting and accounting for timber purchased by the licensee, secure payment to the timber growers and to insure the timber growers against all fraudulent acts of the licensee in the purchase and cutting of the timber of this State.

In the event the timber buyer fails to pay when owing due any amount due a timber grower for timber purchased, or fails to pay judicially determined damages for timber wrongfully cut by a timber buyer or his agent, whether such wrongful cutting has occurred on or adjacent to the land which was the subject of timber purchase from a timber grower, or commits any violation of this Act, then an action on the bond or deposit for forfeiture may be commenced. Such action is not exclusive and is in addition to any other judicial remedies

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available.

In the event that the timber grower or owner of timber cut considers himself or herself aggrieved by a timber buyer, he or she shall notify the Department in writing of such grievance and thereafter the Department shall within 10 days give written notice to the timber buyer of the alleged violation of this Act or of any violation or noncompliance with the regulations hereunder of which the timber grower or owner of timber complains. The written notice to the timber buyer shall be from the Department by registered or certified mail to the licensee and his or her sureties stating in general terms the nature of the violation and that an action seeking forfeiture of the bond may be commenced at any time after the 10 days from the date of said notice if at the end of that period the violation still remains. In the event the Department shall fail to give notice to the timber buyer as provided herein, the timber grower or owner of timber cut may commence his or her own action for forfeiture of the licensee's bond.

The timber buyer, after receiving notice from the Department as provided herein, may within 10 days from the date of such notice, request in writing to appear and be heard regarding the alleged violation.

Upon such request from the timber buyer, the Department shall schedule a hearing, designating the time and place thereof. At such hearing the timber buyer may present for consideration of the Department any evidence, statements, documents or other information relevant to the alleged violation. The hearing shall be presided over by the Director or by any hearing officer he or she may designate. The hearing officer shall take evidence offered by the timber buyer or the Department and shall, if requested by the Department, submit his or her conclusions and findings which shall be advisory to the Director. Any hearings provided for in this Section shall be commenced within 30 days from the request therefor.

Should the timber buyer fail to make timely request for a hearing after receipt of the notice from the Department as provided herein, or after a hearing is concluded, the Department may either withdraw the notice of violation or request the Attorney General to institute proceedings to have the bond of the timber buyer forfeited. The Attorney General, upon such request from the Department, shall institute proceedings to have the bond of the timber buyer forfeited for violation of any of the provisions of this Act or for noncompliance with any Department regulation.

In the event that the licensee's bond is forfeited, the proceeds thereof shall first be applied to any sums determined to be owed to the timber grower or owner of timber cut and then to the Department to defray expenses incurred by the Department in converting the security into money. Thereafter, the Department shall pay such excess to the timber buyer who furnished such security.

In the event the Department realizes less than the amount of liability from the security, after deducting expenses incurred by the Department in converting the security into money, it shall be grounds for the revocation of the timber buyer's license.

(Source: P.A. 83-1362.)

(225 ILCS 735/5) (from Ch. 111, par. 705)

Sec. 5. Violations of Act. It shall be unlawful and a violation of this Act:

(a) For any timber buyer to knowingly and willfully fail to pay, as agreed, for any timber purchased,

(b) For any timber buyer to negligently knowingly-and-willfully cut or cause to be cut or appropriate any timber without the consent of the timber grower,

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(c) For a timber buyer to willfully make any false statement in connection with the application, bond or other information required to be given to the Department or a timber grower,

(d) To fail to honestly account to the timber grower or the Department for timber purchased or cut if the buyer is under a duty to do so,

(e) For a timber buyer to commit any fraudulent act in connection with the purchase or cutting of timber,

(f) For a timber buyer or land owner or operator to fail to file the report or pay the fees required in Section 9a of this Act, and

(g) For any person to resist or obstruct any officer, employee or agent of the Department in the discharge of his duties under the provisions hereof.

(Source: P.A. 86-208.)

(225 ILCS 735/7) (from Ch. 111, par. 707)

Sec. 7. License; issuance, validity, and renewal; certificate.

If the Department is satisfied that the applicant has fulfilled the requirements and if the bond and sureties or bank certificate of deposit filed by the applicant is approved, the Department may shall issue a license to the applicant. The licenses issued shall be valid for a calendar year and may be renewed annually. A copy of the license certificate issued by the Department shall be posted in the principal office of the licensee in this State. The timber buyer identification card issued by the Department shall be carried upon the person of the timber buyer when conducting activities covered under this Act for immediate presentation for inspection to the officers and authorized employees of the Department, any sheriff, deputy sheriff, or any other peace officer making demand for it. No person charged with violating this Section, however, shall be convicted if he or she produces in court satisfactory evidence that a timber buyer identification card that was valid at the time of the offense had been issued to the timber buyer.

Upon request for a license and payment of the fee, the Department shall issue to the licensee a certificate that a license has been granted and a bond filed as required by this Act.

(Source: P.A. 76-1307.)

(225 ILCS 735/11) (from Ch. 111, par. 711)

Sec. 11. Penalties.

(a) Except as otherwise provided in this Section any person in violation of any of the provisions of this Act, or administrative rules thereunder, shall be guilty of a Class A misdemeanor.

(a-5) Any person convicted of violating Section 3 of this Act shall be guilty of a Class A misdemeanor and fined at least \$500 for a first offense and guilty of a Class 4 felony and fined at least \$1,000 for a second or subsequent offense.

(b) Any person convicted of violating subsections (a) or (b) of Section 5 of this Act is guilty of a Class 4 felony if the aggregate value of the timber purchased, cut, caused to be cut or appropriated is over \$300 but not more than \$2,500.

(b-5) Any person convicted of violating subsection (a) or (b) of Section 5 of this Act is guilty of a Class 3 felony if the aggregate value of the timber purchased, cut, caused to be cut, or appropriated is over \$2,500 but not more than \$10,000.

(b-10) Any person convicted of violating subsection (a) or (b) of Section 5 of this Act is guilty of a Class 2 felony if the aggregate value of the timber purchased, cut, caused to be cut, or appropriated is over \$10,000.

(b-15) The aggregate value of the timber purchased, cut, caused to be cut, or appropriated shall be determined as provided by administrative rule.

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(c) A person convicted of violating subsection (f) of Section 5 of this Act is guilty of a Class A misdemeanor. A person convicted of a second or subsequent violation is guilty of a Class 4 felony.

(d) All amounts collected as fines imposed as penalties for violation of this Act shall be deposited in the Illinois Forestry Development Fund for the purposes of the "Illinois Forestry Development Act".

(e) In case of a failure to pay any harvest fee required under Section 9a of this Act on the date as required by regulation of the Department, there shall be added as a penalty an amount equal to 7.5% of the harvest fee due the Department for each month or fraction thereof during which such failure continues, not to exceed 37.5% in the aggregate. This penalty shall be in addition to any other penalty determined under this Act.

(f) In case of failure to file the appropriate report of the purchase harvest fee form stipulated under Section 9a of this Act on the date prescribed therefore, a penalty in the amount of \$25 for each individual report shall be added to the amount due the Department. This penalty shall be in addition to any other penalty determined under this Act.

(Source: P.A. 86-208.)

(225 ILCS 735/13) (from Ch. 111, par. 713)

Sec. 13. License revocation.

(a) The Department may revoke the license of any person who violates the provisions of this Act, and may refuse to issue any permit or license to such person for a period not to exceed 5 years following such revocation.

License revocation procedures shall be established by administrative rule.

(b) Whenever the holder of a license issued under this Act is found guilty of any misrepresentation in obtaining his or her license or of a violation of any of the provisions of this Act or rules adopted pursuant to this Act, the Department may:

(1) revoke his or her license;

(2) refuse to issue a license to that person; and

(3) suspend the person from engaging in the activity requiring the license for up to 5 years following the revocation.

(c) Whenever the holder of a license issued under this Act is found guilty of any misrepresentation in obtaining his or her license or of a violation of any of the provisions of this Act or rules adopted pursuant to this Act, and his or her license has been previously revoked or his or her ability to engage in the activity requiring the license has been previously suspended, the Department may:

(1) revoke his or her license;

(2) refuse to issue any license to that person; and

(3) suspend the person from engaging in the activity requiring the license for at least 5 years but not more than 10 years following the revocation or suspension.

(d) Whenever the holder of a license issued under this Act is found guilty of any misrepresentation in obtaining that license or of a violation of any of the provisions of this Act or rules adopted under this Act, and his or her license has been previously revoked or his or her ability to engage in the activity requiring the license has been suspended on 2 or more occasions, the Department may:

(1) revoke his or her license;

(2) refuse to issue any license to that person; and

(3) suspend the person from engaging in the activity requiring the license for at least 10 years but not more than 75 years following the revocation or suspension. Department

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revocation procedures shall be established by administrative rule.

If the holder of a license is found negligent with respect to any duty required under this Act, the Department may suspend or revoke his or her privilege to engage in the activity for which the license is required, his or her license, or both.

(e) Whenever a person who has not been issued a license under this Act is found guilty of a violation of the provisions of this Act or rules adopted under this Act, the Department may:

(1) refuse to issue any license to that person; and

(2) suspend that person from engaging in the activity requiring the license for up to 5 years following the revocation.

(f) Whenever a person who has not been issued a license under this Act is found guilty of a violation of this Act or rules adopted under this Act and his or her license has been previously revoked or his or her ability to engage in the activity requiring the license has been previously suspended, the Department may:

(1) refuse to issue any license to that person; and

(2) suspend that person from engaging in the activity requiring the license for at least 5 years but not more than 10 years following the revocation or suspension.

(g) Whenever a person who has not been issued a license under this Act is found guilty of a violation of this Act or rules adopted under this Act and his or her license has been previously revoked or his or her ability to engage in the activity requiring the license has been suspended on 2 or more occasions, the Department may:

(1) refuse to issue any license to that person; and

(2) suspend that person from engaging in the activity requiring the license for at least 10 years but not more than 75 years following the revocation or suspension.

(h) Licenses authorized under this Act shall be prepared by the Department and be in such form as prescribed by the Department. The information required on each license shall be completed thereon by the issuing agent at the time of issuance and each license shall be signed by the licensee. All such licenses shall be supplied by the Department, subject to such rules as the Department may prescribe. Any license that is not properly prepared, obtained, and signed as required by this Act shall be void.

(i) Any person whose license to engage in an activity regulated by this Act has been revoked or whose ability to engage in the activity requiring the license has been suspended may not, during the period of suspension or revocation:

(1) hold any license authorized by this Act;

(2) perform directly or indirectly any privileges authorized by any license issued in accordance with this Act; or

(3) buy, sell, barter, trade, or take possession of any timber as defined in this Act, regardless of any contractual agreements entered into prior to the revocation or suspension.

(j) No person may be issued a license or engage in any activity regulated by this Act for which a license is required during the time that the person's privilege to engage in the same or similar activities is suspended or revoked by another state, by a federal agency, or by a province of Canada.

Any person who knowingly or intentionally violates any of the provisions of this Act, or administrative rules thereunder, when his or her license or permit has been revoked or denied or his or her ability to engage in the activity requiring the license has been suspended under this Section, is guilty of a Class 4 felony.

(Source: P.A. 85-287.)

Section 10. The Forest Products Transportation Act is amended by

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changing Sections 2.06, 6, and 10 and adding Section 14 as follows:

(225 ILCS 740/2.06) (from Ch. 96 1/2, par. 6908)

Sec. 2.06. "Proof of ownership" means a printed document provided by the Department that serves as a written bill of sale and bill of lading. The information required in this document shall be established by administrative rule. ~~includes a written bill of sale, a written bill of lading or a written or printed document containing the minimum information required by the Department by rule.~~

(Source: P.A. 86-208.)

(225 ILCS 740/6) (from Ch. 96 1/2, par. 6913)

Sec. 6. Any person hauling or transporting 2 or more trees and forest products, or either of them, on any highway in this State shall be required to show proof of ownership as defined in Section 2.06 of this Act, except that interstate transporters originating outside of this State and traveling to destinations within or outside of this State may show documents in accordance with federal Motor Carrier Safety Administration rules in lieu of such proof of ownership.

If that person is unable to show proof of ownership, the timber and forest products so hauled or transported, and the vehicle or conveyance used as the means of transportation may be held by the Department for disposition subject to court order.

(Source: P.A. 86-208.)

(225 ILCS 740/10) (from Ch. 96 1/2, par. 6917)

Sec. 10. The Department of Natural Resources may promulgate such rules and regulations as may be necessary or desirable to effectuate the purposes of this Act. ~~The Department may make available at a reasonable cost the decals, logos and tags authorized to be used by licensed timber growers under Section 8.~~

(Source: P.A. 89-445, eff. 2-7-96.)

(225 ILCS 740/14 new)

Sec. 14. Any timber, forestry, or wood cutting device or equipment, including vehicles and conveyances used or operated in violation of this Act or rules adopted under this Act or attempted to be used in violation of this Act or rules adopted under this Act shall be deemed a public nuisance and subject to seizure and confiscation by any authorized employee of the Department. Upon the seizure of such an item the Department shall take and hold the item until disposed of as provided in this Section.

Upon the seizure of any property pursuant to this Section, the authorized employee of the Department making the seizure shall forthwith cause a complaint to be filed before the circuit court and a summons to be issued requiring the person who illegally used or operated or attempted to use or operate the property and the owner and person in possession of the property to appear in court and show cause why the seized property should not be forfeited to the State. Upon the return of the summons duly served or other notice as provided in this Section, the court shall proceed to determine the question of the illegality of the use of the seized property and upon judgment being entered to the effect that the property was illegally used, an order may be entered providing for the forfeiture of the seized property to the Department, which shall thereupon become the property of the Department. However, the owner of the property may have a jury determine the illegality of its use and shall have the right of an appeal as in other cases. Such a confiscation or forfeiture shall not preclude or mitigate against prosecution and assessment of penalties otherwise provided in this Act.

Upon seizure of any property under circumstances supporting a reasonable belief that the property was abandoned, lost, stolen, or otherwise illegally possessed or used contrary to the provisions of

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this Act, except property seized during a search or arrest and ultimately returned, destroyed, or otherwise disposed of pursuant to a court order in accordance with this Act, the authorized employee of the Department shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession thereof and shall return the property after that person provides reasonable and satisfactory proof of his or her ownership or right to possession and reimburses the Department for all reasonable expenses of such custody. If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the Department obtains possession, the Department shall effectuate the sale of the property for cash to the highest bidder at a public auction. The owner or other person entitled to possession of the property may claim and recover possession of the property at any time before its sale at public auction upon providing reasonable and satisfactory proof of ownership or right of possession and after reimbursing the Department for all reasonable expenses of custody thereof.

Any property forfeited to the State by court order pursuant to this Section may be disposed of by public auction, except that any property that is the subject of such a court order shall not be disposed of pending appeal of the order. The proceeds of the sale at auction shall be deposited in the Illinois Forestry Development Fund.

The Department shall pay all costs of notices required by this Section.

(225 ILCS 740/4 rep.)

(225 ILCS 740/7 rep.)

(225 ILCS 740/8 rep.)

Section 15. The Forest Products Transportation Act is amended by repealing Sections 4, 7, and 8.

Section 99. Effective date. This Act takes effect upon becoming law."

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced that the following Committees will meet Wednesday, April 24, 2002 at 10:00 o'clock a.m., instead of 9:00 o'clock a.m.:

Education, Room 212, Capitol Building  
Transportation, Room A-1, Stratton Building

#### LEGISLATIVE MEASURE FILED

The following floor amendment to the House Bill listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 2 to House Bill 4228

At the hour of 12:57 o'clock p.m., on motion of Senator O'Malley, the Senate stood adjourned until Wednesday, April 24, 2002 at 12:00 o'clock noon.

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